

Exhibit B

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17 ATTORNEYS FOR REPRESENTATIVE
18 PLAINTIFFS SPECTRUM SCIENTIFICS LLC
19 and RADIO CITY, INC.

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

1 SPECTRUM SCIENTIFICS LLC, RADIO
2 CITY, INC., and those similarly situated,

3 Plaintiffs,

4 v.

5 CELESTRON ACQUISITION, LLC, SYNTA
6 CANADA INT'L ENTERPRISES LTD., SKY-
7 WATCHER USA, SKY-WATCHER CANADA,
8 SW TECHNOLOGY CORP., OLIVON
9 MANUFACTURING CO. LTD., OLIVON USA,
10 LLC, COREY LEE, SYLVIA SHEN, JEAN
11 SHEN, JOSEPH LUPICA, DAVE ANDERSON,
12 LAURENCE HUEN, and DOES 1-50,

13 Defendants.

14 Case No. _____

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**COMPLAINT FOR VIOLATIONS OF
SHERMAN ACT; CARTWRIGHT ACT;
AND UNFAIR COMPETITION LAW**

CLASS ACTION

JURY TRIAL DEMANDED

Case No. _____

1 Plaintiffs Spectrum Scientifics LLC, and Radio City, Inc., on behalf of themselves and
 2 those similarly situated, allege as follows:

3 **INTRODUCTION**

4 1. Since the beginning of time, humans have looked beyond their world into the night
 5 sky. But if you love astronomy and want to share your joy with others, you must pay a price –
 6 hundreds of millions of dollars in illegal overcharges.

7 2. Plaintiffs Spectrum Scientifics and Radio City are small telescope distributors.
 8 They bring this antitrust class action against the dominant U.S. telescope distributor Defendant
 9 Celestron Acquisition, LLC (“Celestron”) and its syndicate of co-conspirators. A jury has already
 10 found that Celestron and its parent company in China, Synta,¹ conspired with their competitor
 11 Ningbo Sunny Electronic Co., Ltd. (“Ningbo Sunny”) to fix prices, divide the market, retaliate
 12 against competitors, mislead U.S. authorities, illegally acquire assets and dominate the U.S. market
 13 so that they could rip off American purchasers. For the last decade, Defendants and their cohorts
 14 have massively and illegally overcharged U.S. telescope distributors.

15 3. Synta and Ningbo Sunny together manufacture over 80% of all consumer telescopes
 16 imported into the U.S. Instead of competing, Synta and Ningbo Sunny agree on what prices to
 17 charge and which products their companies will produce. They have used their unlawful
 18 cooperation and dominance over telescope supply to enable their subsidiaries to take over the U.S.
 19 distribution market. As a result of this unlawful conspiracy, Celestron controls at least 70% of all
 20 U.S. consumer telescope sales, including sales to small distributors like Plaintiffs and their fellow
 21 class members, who are forced to pay supracompetitive prices.

22 4. In addition to colluding on pricing, Defendants and their co-conspirators – who
 23 should have been competing against one another – operated their businesses as a conglomerate for
 24 the mutual benefit of one another. For example, when the Federal Trade Commission blocked
 25 Celestron from acquiring its competitor Meade Instruments Corp., Celestron made a deal where it
 26

27 ¹ As detailed below, the term “Synta” connotes a conglomerate of entities owned and controlled by
 28 Dar-Tson “David” Shen and his close family members that include Synta Technology Corporation,
 Suzhou Synta, and a shadowy network of other factories and distributors.

1 agreed to help its co-conspirator Ningbo Sunny acquire Meade. In exchange, Ningbo Sunny lied to
2 the FTC about Celestron's involvement, secretly gave Celestron equity in Meade, provided
3 Celestron and Synta access to Meade's IP and manufacturing techniques and ensured that Meade –
4 which previously was an independent brand – no longer competed against Celestron. At the same
5 time, Ningbo Sunny funneled its customers' trade secrets to Celestron and Synta to help Celestron
6 adjust its pricing and marketing strategies.

7 5. Defendants' concealment of their conspiracy from consumers ended no earlier than
8 September 2019, when documents were unsealed in an antitrust proceeding brought by Optronic
9 Technologies, Inc. d/b/a Orion Telescopes & Binoculars® (the "Orion Litigation"), where a jury
10 awarded over \$52,000,000 in damages against Defendants' co-conspirators. Some of the
11 documents that the jury relied on in that litigation are attached to this complaint as **Exhibits 1-18**.

12 6. To remedy Defendants' conspiracy and injury to the U.S. telescope market,
13 Plaintiffs and their fellow class members seek compensatory damages to be trebled in accordance
14 with the antitrust laws, injunctive relief, and attorneys' fees.

JURISDICTION AND VENUE

16 7. The Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1337,
17 as well as 15 U.S.C. § 15. The Court has supplemental jurisdiction over Plaintiffs' state-law claims
18 pursuant to 28 U.S.C. § 1337.

19 8. The Court has personal jurisdiction over the Defendants because they directed their
20 tortious conduct at persons and activities within the State of California. The Court further has
21 jurisdiction over Defendants Celestron and Sky-Watcher USA because their headquarters are in
22 California.

23 9. Venue is proper in this district under 28 U.S.C. § 1331(b)(2) and 15 U.S.C. § 22,
24 because a “substantial part of the events or omissions” on which the claims are based occurred in
25 this district.

26 10. Venue is further proper in this district under 28 U.S.C. § 1391(d) because California
27 has more than one judicial district, Defendant Celestron is a California limited liability company
28 subject to the personal jurisdiction of California courts, and Defendant Celestron has sufficient

1 contacts with this District that it would be subject to personal jurisdiction if this District were a
 2 separate state.

3 **THE PARTIES**

4 **A. Plaintiffs**

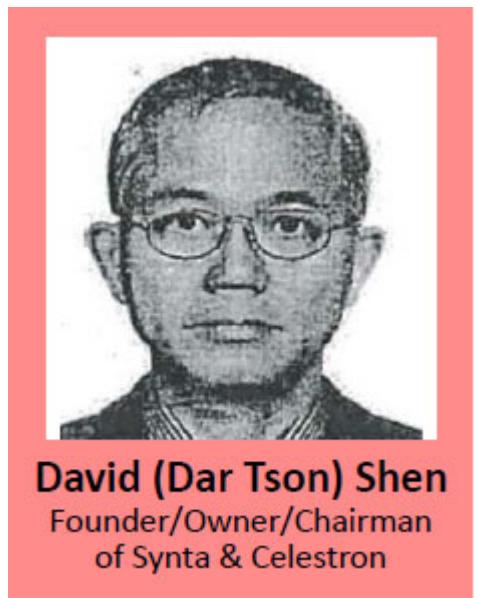
5 11. Spectrum Scientifics LLC is a Pennsylvania limited liability company. Spectrum
 6 Sciences had a physical retail store in Philadelphia that sold telescopes until it shut its doors in
 7 January 2018. It was forced to stop operating a retail store in part because cost pressures in the
 8 telescope industry led to razor-thin margins that ultimately could not support a retail presence.
 9 During the Class Period, Spectrum Scientifics bought telescopes that were manufactured by
 10 Defendants.

11 12. Radio City, Inc. is a Minnesota corporation. Radio City had a retail store in
 12 Minneapolis that sold telescopes until it shut its doors in December 2018. It suffered from low
 13 margins on telescope sales because of suprareactive prices set by Defendants. During the Class
 14 Period, Radio City bought telescopes that were manufactured by Defendants.

15 **B. Defendants and the Synta Co-Conspirators**

16 13. Defendants are a group of related entities, holding companies, and shell corporations
 17 controlled by an individual named David Shen, and his
 18 henchmen.

19 14. Dar-Tson “David” Shen owns and/or controls
 20 various telescope manufacturing and distribution companies
 21 discussed below (collectively “Synta”). Chairman Shen
 22 regularly comes to this District and other places in the U.S.
 23 to meet with U.S. distributors of Synta products. Chairman
 24 Shen directly or indirectly owns and/or controls each of the
 25 Synta entities, as detailed below. Chairman Shen is one of
 26 the primary architects of Defendants’ anticompetitive
 27 conspiracy. He regularly travels to the United States for meetings and other activities in
 28 furtherance of this conspiracy.



1 15. Even though he founded Synta and has run it since its inception, from 2001 to 2005,
 2 Chairman Shen was also concurrently an officer of Synta's supposed horizontal competitor,
 3 Ningbo Sunny. As Chairman Shen's fixer, Defendant Laurence Huen, explained in an email,
 4 "David Shen was appointed as the Vice Chairman of Ningbo Sunny Electronic Co. Ltd. . . . on
 5 November 23 2001. . . . David resigned this position on July 2005, in order to avoid any conflict of
 6 interest after he acquired Celestron on April 2005." A true and correct copy of Mr. Huen's email is
 7 attached as **Exhibit 1**.

8 16. Until 2005, Chairman Shen also held a 26 percent ownership stake in Synta's
 9 horizontal competitor Ningbo Sunny. At that time, he transferred his shares to his sister-in-law,
 10 Dong Yun Xue. Ms. Dong continues to hold that interest.

11 17. Defendant Sylvia Shen is Chairman Shen's sister. Chairman Shen exercises control
 12 over several Synta-related entities, including Celestron, through her. Defendant Sylvia Shen is a
 13 member of Celestron's executive committee. On information and belief, Defendant Sylvia Shen
 14 resides in British Columbia, Canada. She participated in, planned, and carried out the conspiracy
 15 detailed below.

16 18. Defendant Jean Shen is Chairman Shen's sister. Chairman Shen exercises control
 17 over Olivon Manufacturing Corp., a Canadian telescope company with United States subsidiaries,
 18 and Olivon USA, LLC, through her. Ms. Shen actively participated in the conspiracy, including by
 19 representing to telescope distributors that Synta's horizontal competitor and co-conspirator Ningbo
 20 Sunny Electronic Co., Ltd. was one of "my family's companies." On information and belief,
 21 Defendant Jean Shen lives in British Columbia, Canada. She participated in, planned, and carried
 22 out the conspiracy detailed below.

23 19. Suzhou Synta Optical Technology Co., Ltd. ("Suzhou Synta") is a telescope
 24 manufacturing company located in Suzhou, China. Suzhou Synta is owned and/or controlled by
 25 David Shen and his family, and has manufactured telescopes that were sold into this District during
 26 the Class Period.

27 20. Nantong Schmidt ("Nantong Synta") is a telescope manufacturing company located
 28 in Nantong, China. Nantong Synta is owned and/or controlled by David Shen, and has

1 manufactured telescopes that were sold into this District during the Class Period, including to
 2 Defendant Celestron.

3 21. Synta Technology Corp. (“Synta Technology”) is a company headquartered in
 4 Taiwan. Together with its subsidiaries and affiliates, it has sold telescopes into the U.S., Canada,
 5 and the European Union during the Class Period. Synta Technology has sold telescopes that were
 6 shipped into this District. Its address in Taiwan is No. 89 Lane 4 Chia-An W. Road Lung-Tan
 7 Taoyuan Taiwan R.O.C. Synta Technology is a member of Defendants’ anticompetitive
 8 conspiracy.

9 22. Defendant Celestron Acquisition, LLC (“Celestron”) is the largest importer and
 10 seller of telescopes in the U.S. and abroad. It is headquartered in Torrance, California, and it
 11 imports and sells telescopes in this District. It is a wholly owned subsidiary of Synta Technology,
 12 and like all Synta entities, it is controlled by Chairman Shen. Celestron has sold telescopes into
 13 this District during the Class Period.

14 23. Defendant SW Technology Corporation (“SW Technology”) is a Delaware
 15 corporation. Upon information and belief, it is a wholly owned subsidiary of Synta Technology.
 16 Chairman Shen and his family members created it in 2005 to acquire Celestron, and they continue
 17 to operate it as a holding company.

18 24. SW Technology acquired Celestron as a wholly owned subsidiary in 2005.
 19 Celestron issued a press release about the acquisition in which it stated that SW Technology is “an
 20 affiliate of Synta Technology Corporation” referred by name to Chairman Shen. Chairman Shen
 21 owns and controls Celestron through SW Technology. Defendant Sylvia Shen is the CEO, CFO,
 22 and Secretary of SW Technology.

23 25. Defendant Synta Canada Int’l Enterprises Ltd. (“Synta Canada”) is a Canadian
 24 company. It is listed as a 20 percent owner of Suzhou Synta. Upon information and belief, Synta
 25 Canada is owned and/or controlled by Chairman Shen and his family members.

26 26. Upon information and belief, Defendant Olivon Manufacturing Co. Ltd. (“Olivon
 27 Canada”) is a company registered in British Columbia, Canada and headquartered in Richmond,
 28

1 British Columbia, Canada. Defendant Jean Shen is its principal. Upon information and belief,
 2 Olivon Canada sells telescopes into the United States.

3 27. Defendant Olivon USA, LLC (“Olivon USA”) is a company registered in Nevada
 4 and headquartered in Las Vegas, Nevada. Defendant Jean Shen is its principal.

5 28. Olivon Canada and Olivon USA have participated in Defendants’ conspiracy by
 6 falsely representing to telescope distributors that Synta’s horizontal competitor and co-conspirator
 7 Ningbo Sunny Electronic Co., Ltd. is one of Defendant Jean Shen’s “family’s companies,” thereby
 8 unlawfully coordinating price fixing and market division among horizontal competitors.

9 29. Upon information and belief, Good Advance Industries Limited (“Good Advance”)
 10 is a company registered in the British Virgin Islands. Chairman Shen is its Director. Like Synta
 11 Technology, its address in Taiwan is also No. 89 Lane 4 Chia-An W. Road Lung-Tan Taoyuan
 12 Taiwan R.O.C. Good Advance has shipped telescopes into this District and acted as a central hub
 13 for price-fixing between the Synta Entities and their co-conspirators.

14 30. Upon information and belief, Defendant Sky-Watcher USA is owned by a Synta
 15 affiliate and is controlled by Chairman Shen. Sky-Watcher USA is headquartered in Southern
 16 California. Sky-Watcher USA has sold telescopes into this District during the Class Period.

17 31. Upon information and belief, Defendant Sky-Watcher Canada is a wholly owned
 18 subsidiary of Synta Technology Corp. and/or another Synta affiliate, and is run by Defendant
 19 Sylvia Shen, the sister of Chairman Shen.

20 32. Defendant Joseph Lupica is the former CEO of
 21 Celestron. He subsequently became the CEO of Celestron’s
 22 horizontal competitor Meade as the result of a conspiracy engineered
 23 by Chairman Shen and Defendants’ co-conspirators. Defendant
 24 Lupica lives in Palm Springs, California. Defendant Lupica
 25 participated in, planned, and carried out the conspiracy detailed
 26 below.



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1 33. Defendant Dave Anderson is the former CEO of
 2 Celestron. Defendant Anderson lives in or near Minneapolis,
 3 Minnesota. Defendant Anderson participated in, planned, and
 4 carried out the conspiracy detailed below.

5 34. Defendant Corey Lee is the CEO of Celestron, and
 6 lives in California. Defendant Lee participated in, planned, and
 7 carried out the conspiracy detailed below.

8 35. Defendant Laurence Huen is a board member of
 9 Celestron and a close advisor and confidante to Defendant Shen. On
 10 information and belief, Defendant Huen resides in British Columbia,
 11 Canada. Defendant Huen participated in, planned, and carried out
 12 the conspiracy detailed below.

13 36. Upon information and belief, Defendants SW
 14 Technology, Synta Canada, Olivon Canada, Olivon USA, Celestron,
 15 Sky-Watcher USA, and Sky-Watcher Canada are part of a network
 16 of Synta entities directly and indirectly owned and controlled by Chairman Shen and his family
 17 members. They are operated and run for the common benefit of one another and Chairman Shen
 18 and have aided, encouraged, and cooperated with Defendants and their co-conspirators to fix the
 19 prices of telescopes, and dominate and allocate the markets for telescope manufacturing and
 20 distribution. Upon information and belief, there is no reasonable or legitimate business purpose for
 21 the proliferation of Synta-related holding companies and shell corporations. Upon information and
 22 belief, they are designed to hide assets, obscure ownership, and divert assets and shift capital away
 23 from the People's Republic of China on behalf of their co-conspirators who are based in China.

24 **C. The Ningbo Sunny/Meade Co-Conspirators**

25 37. The Ningbo Sunny/Meade Co-Conspirators are a group of related entities controlled
 26 by Wenjun ("Peter") Ni.

27 38. Ningbo Sunny Electronic Co., Ltd. is a company located in Yuyao, Zhejiang, China.
 28 During the Class Period, Ningbo Sunny has exported and sold telescopes into this District through



Dave Anderson
Ex-CEO of Celestron



Laurence Huen
Advisor to David Shen /
Synta

1 its U.S. subsidiary, Meade Instruments Corp. (“Meade”), through Celestron, and through other U.S.
 2 distributors.

3 39. Meade Instruments Corporation is a wholly-owned U.S. subsidiary of Ningbo
 4 Sunny. Meade is located in Irvine, California, and has sold telescopes in this District.

5 40. Peter (“Wenjun”) Ni is the founder, owner,
 6 and chief executive of Ningbo Sunny. On information and
 7 belief, Mr. Ni directly or indirectly owns and/or controls
 8 each of the Ningbo Sunny entities detailed below. Mr. Ni
 9 coordinated, led, entered, and/or authorized the collusive
 10 agreements at issue between Defendants and the Synta co-
 11 conspirators and Ningbo Sunny, described herein, including
 12 without limitation: to jointly fix prices offered to
 13 distributors, to jointly restrict and set distributors’ trade and
 14 credit terms, and to block competitors from purchasing
 15 Meade by orchestrating the acquisition of Meade using the Synta Defendants’ support and
 16 assistance to coordinate its pricing, sales, and manufacturing practices with Synta and Celestron to
 17 effectively monopolize the U.S. market.

18 41. Ningbo Sunny is an affiliate of a publicly traded company on the Hong Kong stock
 19 exchange, Sunny Optical Technology Group Co., Ltd. (“Sunny Optical Group”). Sunny Optical
 20 Group’s director and ultimate controlling shareholder Wang Wenjian is the uncle of Chairman Ni.

21 42. Chairman Ni helped fund the Meade acquisition and executed the acquisition
 22 agreement under U.S. law.

23 43. The Ningbo Sunny/Meade Co-Conspirators are controlled by Chairman Ni.
 24 Through Chairman Ni and other agents, the Ningbo Sunny/Meade Co-Conspirators conspired with
 25 one another and with their competitors, the Synta/Celestron Defendants and co-conspirators, to
 26 engage in the acts and omissions alleged herein. Each Defendant acted with knowledge of the
 27 conspiracy and worked with each other and unknown third parties to accomplish their objective.



Peter (Wenjun) Ni
 Founder/Owner/CEO of
 Ningbo Sunny & Meade

1 Each Defendant acted as the principal, agent, and/or joint venturer of, and on behalf of the other
 2 Defendants, regarding the acts, violations, and common course of conduct alleged herein.

3 44. DOES 1-25 participated as co-conspirators in the violations alleged herein and
 4 performed acts and made statements in furtherance thereof. Each of the Defendants actively
 5 conspired with one another and are liable for each other's acts and omissions alleged herein. Each
 6 Defendant acted with knowledge of the conspiracy to monopolize the market for telescopes and
 7 worked with each other and unknown third parties to accomplish their objective. Each Defendant
 8 acted as the principal, agent, and/or joint venturer of, and on behalf of, the other Defendants,
 9 regarding the acts, violations, and common course of conduct alleged herein.

10 45. DOES 26-50 worked with Defendant Shen, Defendant Huen, Defendant Lupica and
 11 Defendant Anderson, and aided and abetted the unlawful Meade acquisition and other unlawful and
 12 anticompetitive conduct set forth herein.

13 46. Each Defendant headquartered outside the United States relied upon its domestic
 14 agents, employees, and affiliates, and co-conspirators including without limitation Celestron, SW
 15 Technology, Sunny Optics, and Meade to help implement and conceal the anticompetitive activities
 16 alleged herein, including the conspiracy to fix prices, divide and dominate the market discussed
 17 below.

18 47. The agency relationships formed among the Defendants with respect to the acts,
 19 violations, and common course of conduct alleged herein were consensually formed. Defendants'
 20 agents acted in the United States and abroad within the scope of their agency relationship with their
 21 own principals, under the control and explicit authority, implied authority, or apparent authority of
 22 their principals. Accordingly, the Defendant principals are liable for the acts of their agents.
 23 Likewise, the Defendant agents are liable for the acts of their principals conducted by the agents
 24 within the scope of their explicit, implied, or apparent authority.

25 48. On information and belief, Defendants, and each of their co-conspirators identified
 26 above, conspired together to commit the antitrust violations set forth in this complaint, aided and
 27 abetted one another, and acted in concert with one another. Defendants conspired with one another
 28 and their co-conspirators to engage in the acts and omissions alleged herein. Each Defendant acted

1 with knowledge of the conspiracy and worked with each other and unknown third parties to
 2 accomplish their objective. Each Defendant acted as the principal, agent or joint venturer of, and
 3 on behalf of the other Defendants, regarding the acts, violations, and common course of conduct
 4 alleged herein.

5 **FACTS**

6 **A. Consumer Telescopes**

7 49. Astronomy is a popular hobby for many Americans. The worldwide market for
 8 consumer astronomical telescopes (as opposed to the advanced telescopes used at universities and
 9 observatories) generates approximately \$250–\$500 million in telescope sales annually. The U.S. is
 10 one of the largest markets for consumer telescopes in the world, if not the largest.

11 50. Telescopes have two main optical components: the *objective*, the primary lens or
 12 mirror that collects and focuses the light into an image, and the *eye lens*, which is placed near the
 13 focal point of the objective to magnify its image. In a *refracting* telescope, the objective is
 14 composed of concave lenses; in a *reflecting* telescope, it is one or more concave mirrors.

15 51. In addition to optical components, telescopes have mounts that enable the user to
 16 move the telescope. Some telescopes employ motorized mounts and software that can
 17 automatically move the telescope to point at objects in the sky.

18 52. Over 80% of all recreational telescopes sold in the U.S. market are made by either
 19 Ningbo Sunny or Synta.

20 53. By working in concert with their competitors, Defendants have dominated telescope
 21 sales in the U.S.

22 **B. The Telescope Market**

23 54. There are two relevant markets in this action. The first is for consumer telescope
 24 and telescope accessory manufacturing for import into the United States (the “Manufacturing
 25 Market”). The geographic scope of this market is global. The Synta/Celestron Defendants and co-
 26 conspirators and the Ningbo Sunny/Meade Co-Conspirators together control over 80 percent of that
 27 market.

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1 55. Synta and Ningbo Sunny are each capable of manufacturing all types of consumer
 2 telescopes. Generally, however, Synta manufactures only higher-end products, while Ningbo
 3 Sunny manufactures only lower-end models. Synta will not manufacture or offer to quote a
 4 competitive price on products offered by Ningbo Sunny, and vice versa.

5 56. This arrangement is no accident: It is the result of a long-standing agreement
 6 between the two, memorialized in dozens of emails.

7 57. As a result of their unlawful agreement not to compete, both Synta and Ningbo
 8 Sunny can, and do, charge supracompetitive prices, restrict supply, and engage in other unlawful,
 9 monopolistic conduct.

10 58. The second relevant market in this action is a downstream market from the
 11 Manufacturing Market. It is the market for consumer telescope distribution (the “Distribution
 12 Market”). The geographic scope of this market is the United States.

13 59. In 2005, Synta acquired Celestron. Through Defendants’ and their co-conspirators’
 14 efforts, Celestron became the dominant U.S. telescope distributor. Then, as detailed below, Ningbo
 15 Sunny acquired Meade with Celestron’s and Synta’s help. Synta and Ningbo Sunny sell their
 16 telescopes to distributors through distributor brands, including their wholly owned subsidiaries
 17 Celestron and Meade, which then sell the telescopes through stores, dealers, and the internet to
 18 astronomy enthusiasts in the U.S. Together, Celestron and Meade account for the vast majority of
 19 consumer telescopes sold in the United States.

20 60. Telescope distribution was not historically this concentrated. But Synta and Ningbo
 21 Sunny transformed the market through their stranglehold over the Manufacturing Market. Working
 22 together, they have prevented competitors from entering the market and have thereby ensured that
 23 they are the only meaningful sources of telescopes for U.S. telescope distributors – and, ultimately,
 24 for consumers.

25 61. Synta and Ningbo Sunny conspired and leveraged their market power in the
 26 Manufacturing Market to control the Distribution Market. As a result, Celestron rose to
 27 prominence over other distributors. When Ningbo Sunny, aided by Celestron and Synta, acquired
 28 Meade, they took an independent supplier/distributor/competitor out of the market. Meade has not

1 seriously competed with Celestron since the Ningbo Sunny acquisition and has not used its
 2 manufacturing capabilities to diversify the supply of telescopes.

3 62. Synta and Ningbo Sunny consolidated their subsidiaries' control of the Distribution
 4 Market by fixing prices and engaging in anticompetitive conduct. In specific, Synta and Ningbo
 5 Sunny would offer supply to Celestron at prices far below those offered to independent distributors
 6 and with far better credit terms, thereby raising telescope prices throughout the Distribution
 7 Market. With no other meaningful sources of supply, Plaintiffs and Plaintiff Class had no choice
 8 but to pay the elevated prices caused by Defendants and their co-conspirators' unlawful collusion.

9 63. Because of their respective market shares, agreements not to compete, and
 10 significant barriers to entry, Synta and Ningbo Sunny have an effective monopoly over the
 11 respective products each sells to distributors.

12 64. Defendants' ability to control prices, influence output, and charge supracompetitive
 13 rates is likely to last for years because significant barriers to entry exist. These barriers to entry
 14 arise from unique market conditions, including the history of collusion among Defendants.

15 65. First, telescope manufacturing has high capital investment costs, and the two key
 16 manufacturers (Synta and Ningbo Sunny) are vertically integrated with the largest distributors.
 17 Given the size of the market, there are not enough independent distributors to make building an
 18 independent manufacturing facility profitable.

19 66. Second, telescope manufacturing requires key intellectual property rights. One
 20 important example is a portfolio of patents on software to automatically find celestial objects,
 21 which beginning users demand. Meade invented that software and originally owned the patents on
 22 it. But Defendants and Ningbo Sunny colluded to acquire Meade, specifically to block a small
 23 manufacturer that might have been a competitor from acquiring this vital IP.

24 67. No new manufacturers of any significance have entered the market in at least the
 25 last 10 years. With Ningbo Sunny's acquisition of Meade, which also had manufacturing
 26 capabilities, the number of sources of supply essentially diminished to two: Synta and Ningbo
 27 Sunny.

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1 68. Synta and Ningbo Sunny have, on information and belief, restricted supply and
 2 charged monopoly prices because they have agreed to divide the supply market between
 3 themselves to eliminate any competition. Moreover, demand is inelastic for telescopes and
 4 telescope manufacturing. Because there are few or no substitutes for Defendants' manufacturing
 5 services and products, distributors and consumers have little choice but to pay higher prices.

6 **D. Defendants' Anticompetitive Conduct**

7 69. Defendants conspired with their co-conspirators to fix the prices of telescopes, to
 8 allocate the manufacturing and sales of telescopes, to unlawfully acquire assets, and to dominate
 9 and monopolize telescope supply and distribution.

10 70. The anticompetitive acts include, without limitation:

- 11 a. Fixing the prices of telescopes and dividing the market;
- 12 b. Helping Ningbo Sunny acquire and operate Celestron's horizontal
 competitor, Meade;
- 13 c. Obtaining and sharing non-public, sensitive information with their co-
 conspirators, including information about Meade's intellectual property,
 business plans, and product pricing;
- 14 d. Obtaining and sharing non-public, sensitive information about its
 competitors' businesses, including intellectual property, business plans, and
 product pricing with their co-conspirators; and
- 15 e. Aiding and abetting their co-conspirators' coordinated action to maintain
 power.

22 71. Through such activities, Synta and Ningbo Sunny – the only two major
 23 manufacturers of consumer telescopes – illegally combined and conspired with one another instead
 24 of competing against each other, and illegally helped Celestron dominate the Distribution Market.
 25 Each such activity, taken alone, represents an independent antitrust conspiracy. Together, they are
 26 overwhelming. *See Optronic Techs., Inc. v. Ningbo Sunny Elec. Co.*, No. 5:16-CV-06370-EJD,
 27 2019 WL 1429631, at *3 (N.D. Cal. Mar. 29, 2019) (“[I]n cases such as this, plaintiffs should be
 28 given the full benefit of their proof without tightly compartmentalizing the various factual

1 components and wiping the slate clean after scrutiny of each.”) (quoting *Russell v. Nat'l Collegiate*
2 *Athletic Ass'n*, 2012 WL 1747496, at *3 (N.D. Cal. May 16, 2012); *see also Church & Dwight Co.*
3 *v. Mayer Labs.*, Inc., 2011 WL 1225912, at *16 (N.D. Cal. Apr. 1, 2011) (collecting cases and
4 stating, “the Court considers the effects of [the defendant’s] conduct in the aggregate, including, as
5 appropriate, cumulative or synergistic effects.”); *see also, e.g.*, *United States v. Container Corp.*,
6 393 U.S. 333, 337 (1969) (“The inferences are irresistible that the exchange of price information
7 has had an anticompetitive effect in the industry, chilling the vigor of price competition.”); *In re*
8 *Static Random Access Memory (SRAM) Antitrust Litig.*, 580 F. Supp. 2d 896 (N.D. Cal. 2008)
9 (“The exchange of pricing information alone can be sufficient to establish the combination or
10 conspiracy, the initial ingredient of a violation of § 1 of the Sherman Act”) (quoting *Container*
11 *Corp.*, 393 U.S. at 335); *In re Capacitors Antitrust Litig.*, 106 F. Supp. 3d 1051, 1067 (N.D. Cal.
12 2015) (allegations that two parties “conducted an exchange of competitively sensitive information”
13 and agreed to exchange in the future is “enough to meet the *Twombly* pleading standard”).

1. Defendants' Collusion to Acquire Meade

15 72. For many years, Meade was the leading U.S. telescope brand. It had a
16 manufacturing facility in Mexico, where it had the ability to manufacture high- and low-end
17 products. It also owned significant patents, including patents for Goto technology, which uses
18 computers and GPS to allow users to automatically direct their telescopes to celestial objects. That
19 capability is highly valued by hobbyist and amateur astronomers, especially beginners. It was also
20 the subject of substantial litigation between Defendant Celestron and Meade.

73. The Federal Trade Commission blocked attempts by Celestron and Meade to merge in 1991 and 2002 because the mergers would have created monopolies and reduced competition.

23 74. When Meade went up for sale in 2013, a small telescope manufacturer named
24 Jinghua Optical (“JOC”) submitted a bid to purchase it. Although JOC was much smaller than
25 Synta and Ningbo Sunny, it was a competitor of Synta and Ningbo Sunny. If JOC had been able to
26 complete the purchase, it would have gained key knowledge about how to make high-end products,
27 as well as a patent portfolio with which to compete against Synta and Ningbo Sunny. It also would
28 have gained a brand to compete against Celestron in the Distribution Market.

1 75. Because JOC's acquisition of Meade would have diversified manufacturing,
 2 preserved an independent distributor, and increased competition in the telescope industry, both
 3 Synta and Ningbo Sunny wanted to acquire Meade to keep it out of JOC's hands.

4 76. However, the FTC had earlier blocked Celestron and Meade from merging.
 5 Because Synta owned Celestron, Synta too could not acquire Meade directly. Instead, Chairman
 6 Shen made an agreement with Chairman Ni that if Ningbo Sunny would acquire Meade, Celestron
 7 and Synta would provide financial and other assistance to complete the purchase.

8 77. Chairman Ni explained this plan in an email to Defendant Anderson (Celestron's
 9 then-CEO), and Celestron's Board members, Defendants Huen, Chen and Sylvia Shen, asking
 10 Celestron and Synta to continue providing financial support pursuant to their illegal agreement:

11 **From:** nbsunny <nbsunny@vip.sina.com>
 12 **Sent:** Friday, December 13, 2013 12:43 AM
 13 **To:** DAVE ANDERSON
 14 **Cc:** david shen; Laurence Huen; Jack chen; shentakuo1
 15 **Subject:** Fw: Fw: Celestron Payments星特朗付款

16 Dear Dave,

17 Thanks for your email and supports!

18 At the end of June or beginning of July, I discussed with you about the case of purchasing meade in USA.
 To prevent JOC to buy MEADE, we decided to purchase MEADE by sunny after discussion. But the
 premise of this case is CELESTRON / SYNTA should be provided the financial support to SUNNY.

19 A copy of the email is attached as **Exhibit 2**.

20 78. Before the acquisition took place, the Financial Industry Regulatory Authority
 21 (FINRA) opened an investigation into Ningbo Sunny. Ningbo Sunny's disclosures to FINRA
 22 reveal the following timeline:

- 23 a. On May 17, 2013, JOC announced its plan to acquire Meade.
- 24 b. On May 23, 2013, Chairman Ni and Chairman Shen, along with Defendants
 25 Sylvia Shen, Joseph Lupica, and Dave Anderson, discussed Ningbo Sunny's
 26 possible purchase of Meade.
- 27 c. On June 11, 2013, Ningbo Sunny submitted its bid to purchase Meade.

d. Five days later, Chairman Ni emailed Celestron Board member Defendant Huen, asking Celestron to pay \$2,000,000 for the transaction, a copy of which is attached as **Exhibit 3**.

79. Celestron sent Ningbo Sunny the requested amount, as well as other sums, to fund its purchase of Meade.

80. Documents and testimony from the Orion Litigation reveal that in addition to financially supporting the transaction, Synta and Celestron, with the help of Defendants Anderson and Lupica (who were working for Celestron at the time) were actively involved in setting up the deal structure, assisting with due diligence, and negotiations.

10 81. Ningbo Sunny was represented in the Meade transaction by the law firm Sheppard,
11 Mullin, Richter & Hampton, LLP. According to the terms of the engagement letter, however,
12 Sheppard Mullin was required to take instructions from Ningbo Sunny's horizontal competitor
13 Chairman Shen and his employees, including Celestron executives Defendants Lupica and
14 Anderson. Defendants Lupica and Anderson worked with Sheppard Mullin to help structure and
15 negotiate the transaction and to keep Chairmen Shen and Ni informed about its progress. As stated
16 in Sheppard Mullin's engagement letter, a copy of which is attached as **Exhibit 4**:

SHEPPARD MULLIN RICHTER & HAMPTON LLP

June 6, 2013

Page 2

engagements for the Client that we may undertake. You have advised us that you will obtain tax advice regarding the Matter from a third party; accordingly, our firm will not be providing any tax advice in connection with the Matter, including, without limitation, tax structuring or tax consequences arising out of the Matter. You have instructed us to take direction from and communicate directly with your advisors, Dave Anderson (President of Celestron), Laurence Huen, David Shen (head of Synta) and Joe Lupica.

24 82. Chairmen Shen and Ni also agreed that Defendant Lupica, who was then CEO of
25 Celestron, would be transferred to Ningbo Sunny and that, once Ningbo Sunny had acquired
26 Meade, Defendant Lupica would become Meade's CEO.

27 83. After the acquisition, Defendant Lupica became Meade's CEO. He began replacing
28 Meade's management with officers from Celestron, including Celestron's Vice President of Sales,

1 co-conspirator Victor Aniceto, who was hired as the Vice President of Sales for Meade. Later,
 2 when Defendant Lupica retired, co-conspirator Aniceto was promoted to President of Meade.

3 84. Celestron Board member Defendant Huen also assisted Defendant Lupica and acted
 4 as a conduit of information between horizontal competitors Ningbo Sunny and Synta.

5 85. Defendant Lupica has admitted that Ningbo Sunny could not have acquired Meade
 6 but for the collusive assistance it received from its horizontal competitor Synta.

7 86. After the Meade acquisition, Defendant Huen and Chairman Shen continued to
 8 provide advice and assistance to horizontal competitors Ningbo Sunny and Meade, met with
 9 Chairman Peter Ni about these issues, and toured Meade's facilities. A copy of an email in which
 10 Defendant Huen instructs Ningbo Sunny to remove Meade's CEO and to replace him with
 11 Celestron's former CEO, Defendant Lupica, is attached as **Exhibit 5** at TX1303.002.

12 87. Synta/Celestron made substantial payments and loans to Ningbo Sunny to facilitate
 13 the Meade acquisition. These payments were documented, for example, in an accounting provided
 14 by Celestron's CFO, Paul Roth, a copy of which is attached as **Exhibit 6**.

15 88. As part of their unlawful arrangement, Defendant Celestron took equity in its
 16 horizontal competitor Meade – which is memorialized in shadow books kept by Defendants' co-
 17 conspirators, a copy of which is attached as **Exhibit 7**.

18 89. On November 26, 2019, a jury found that this acquisition, which was orchestrated
 19 and aided and abetted by Defendants, their co-conspirators and their agents, violated the antitrust
 20 laws.

21 **2. Defendants' Misrepresentation to the FTC**

22 90. The FTC began inquiring into whether Chairman Shen and Celestron were involved
 23 with the Meade acquisition. In response, on August 22, 2013, Sheppard Mullin partner Robert
 24 Magelnicki represented to the FTC that “except for the limited advice to Peter Ni regarding how to
 25 acquire a U.S. company . . . , David Shen has no role in the proposed acquisition of Meade.” This
 26 email chain is attached as **Exhibit 8**.

27
 28

1 91. Mr. Magelnicki's statement to the government was false. As Peter Ni explained in
 2 **Exhibit 2**, prior to August 22, 2013, Chairman Ni and Chairman Shen had agreed that Chairman
 3 Shen and his companies – including Celestron – would provide financial support to Ningbo Sunny
 4 to assist in the acquisition, which they did:

5
From: nbsunny <nbsunny@vip.sina.com>
 6 **Sent:** Friday, December 13, 2013 12:43 AM
To: DAVE ANDERSON
 7 **Cc:** david shen; Laurence Huen; Jack chen; shentakuo1
Subject: Fw: Fw: Celestron Payments星特朗付款

9
 10 Dear Dave,

11 Thanks for your email and supports!

12 At the end of June or beginning of July, I discussed with you about the case of purchasing meade in USA.
 13 To prevent JOC to buy MEADE, we decided to purchase MEADE by sunny after discussion. But the
 premise of this case is CELESTRON / SYNTA should be provided the financial support to SUNNY.

14 92. Moreover, as seen in **Exhibit 4**, Sheppard Mullin had been ordered to take
 15 instructions from Chairmen Shen and Synta/Celestron personnel regarding the Meade acquisition.

16 93. The FTC was also concerned that Chairman Shen was previously a Ningbo Sunny
 17 shareholder. To allay the FTC's concerns, Chairman Ni formed Sunny Optics, Inc., the entity used
 18 to acquire Meade, and became its sole shareholder. Sheppard Mullin then represented to the FTC
 19 that Ningbo Sunny had nothing to do with the Meade acquisition. Then, after the acquisition
 20 closed, Chairman Ni transferred his interest in Sunny Optics to Ningbo Sunny, for \$1.

21 94. The money used to fund the Meade acquisition came from a Hong Kong company
 22 jointly owned by Chairman Shen and Chairman Ni, named "Sky Rainbow." This is another way
 23 that the conspirators' representations to the FTC that Chairman Shen was uninvolved in the Meade
 24 acquisition were false.

25

26

27

28

3. Defendants' Sharing of Trade Secrets, Price Fixing, and Market Allocation

2 95. After the acquisition, Synta, Celestron, Ningbo Sunny, and Meade colluded not to
3 compete with one another. This conspiracy is revealed in numerous emails. For example, an email
4 between the principals of Synta and Ningbo Sunny shows Chairman Shen asking Ningbo Sunny's
5 Chairman Peter Ni to work out what he calls a "tacit understanding" with Defendant Anderson
6 (Celestron's then-CEO) about not competing against Celestron for sales to Costco:

From: david shen <syntadavid@163.com>
Sent: Thursday, December 12, 2013 6:36 PM
To: kmnwj; 邱軍文 (Qiu Junwen)
Subject: Re:转发: 米德公司的工资核定 Wage verification of Meade

4 | A full, translated copy of this email is attached as **Exhibit 9** at TX1769.003.

15 96. As Chairman Shen explained in another email to Chairman Ni and Defendant
16 Anderson: "The best way in the future is to divide the products and sell them into different markets
17 to reduce conflicts." A copy of that email is attached as **Exhibit 10**.

18 97. At all relevant times, the goal of the co-conspirators' conduct was to ensure that
19 Celestron was able to dominate the U.S. market and keep their ill-gotten gains outside of mainland
20 China. To do so, the co-conspirators agreed not to compete against Celestron. As Meade's then
21 Vice-President of Sales Victor Aniceto explained the strategy to then-Meade CEO Defendant
22 Lupica, "Mr. Ni. . . . doesn't want to disrupt Synta business. However, this promo will not be
23 disruptive to Celestron business." A copy of this email is attached as **Exhibit 11**.

24 98. As part of their pricing coordination efforts, Celestron's current CEO, Defendant
25 Corey Lee, worked with co-conspirators Synta and Ningbo Sunny to steal competitors' trade secret
26 sales and pricing information.

1 99. Ningbo Sunny sells products to Celestron's competitors. To assist Celestron,
 2 Ningbo Sunny provides Celestron with key business information on such customers' purchasing,
 3 such as information about the pricing of products, credit arrangement and order forecasts. For
 4 example, in May 2015, James Chiu (Ningbo Sunny) provided detailed statistics for several recent
 5 years of Orion orders to Celestron's current CEO, Corey Lee:

6 发件人 : COREY LEE Celestron CEO
 7 发送时间 : 2015-05-23 06:31
 8 收件人 : nbsunny Subject: Re: Order statistics
 9 Junwen,
 10 Thank you. I assume this information is for Orion orders in 2015? Can you supply sales figures for
 11 both 2014 and 2013?
 12 From: nbsunny [mailto:nbsunny@vip.sina.com] James Chiu
 13 Sent: Friday, May 22, 2015 4:58 PM
 14 To: COREY LEE Re: Order statistics
 15 Subject: 回复: RE: Orion 订单统计
 16 Dear Corey,
 17 This is for 2014. I will send for 2013 on Monday.

17 A full, translated copy of this email chain is attached as **Exhibit 12**.

18 100. In a deposition, Mr. Chiu admitted that the kind of information he shared with
 19 Celestron constituted trade secrets:

20 Q. How about the volume of business that a customer does with
 21 Ningbo Sunny? Is that a trade secret, too?

22 A. Certainly, that's also a trade secret.

23 Q. How about even the fact that somebody is buying from Ningbo
 24 Ningbo Sunny, is that a trade secret?

25 A. I consider it a trade secret.

26 101. Ningbo Sunny and Synta also share and fix prices. In charging certain distributors,
 27 Synta and Ningbo Sunny negotiate together on how much to charge and then jointly fix the price.

1 For example, James Chiu of Ningbo Sunny and Joyce Huang of Synta discussed how Ningbo
 2 Sunny's prices should be higher. This email is attached as **Exhibit 13**.

3 102. Similarly, Ms. Huang of Synta wrote emails to Mr. Chiu of Ningbo Sunny
 4 informing him that Ningbo Sunny's "payment terms should be the same with Suzhou [Synta]," a
 5 direction with which Ningbo Sunny complied. This email is attached as **Exhibit 14**.

6 103. Chairman Ni also has forwarded other Meade confidential information to Chairman
 7 Shen to assist with Synta's and Celestron's business.

8 104. As a result of having no competition and by virtue of their unlawful agreements,
 9 Defendants have the ability to unilaterally set supracompetitive prices far above what they could
 10 command in a competitive market.

11 105. Emails among Defendants and their co-conspirators show collusion on what
 12 products they will manufacture and distribute at both the manufacturing and distribution stage. For
 13 example, emails written by Ningbo Sunny Vice Chairman James Chiu to Defendant Sylvia Shen
 14 discuss "how to avoid conflict with Celestron products" and state that "[i]f the customer visits our
 15 factory and confirms their intention to cooperate with us, we will consider the strategy of
 16 separation from Celestron products or adopt different product prices to protect Celestron." This
 17 email is attached as **Exhibit 15**.

18 106. On other occasions, James Chiu of Ningbo Sunny explained to Chairman Shen of
 19 Synta that Ningbo Sunny "will take prompt action to avoid conflict in the astronomical market,"
 20 including "abandoning the small OEM customers so as to protect big customers." This email is
 21 attached as **Exhibit 16**.

22 107. In sum, as Defendant Shen explained in an email to Ningbo Sunny: "Director Ni
 23 will not be a competitor and is trustworthy when it comes to business." **Exhibit 9** at TX1769.001.

24 108. Defendants coordinated and elevated their prices. They sought to avoid conflict
 25 with each other's products and developed strategies to protect each other from competition. As
 26 Defendant Lupica wrote, they did this to "dominate the telescope industry." A copy of this email is
 27 attached as **Exhibit 17**.

1 109. Whenever any Defendants' and their co-conspirators' customers challenged the
 2 dominance of the conspiracy over the telescope market, Defendants used their market power to
 3 crush the opposition. As Chairman Shen explained to Defendants and the Ningbo Sunny co-
 4 conspirators, "we do not need to wage a price war" because "[s]uspension of supply does not need
 5 any price wars. We replace them." A copy of this email is attached as **Exhibit 18**.

6 **E. Defendants' Conduct Has Harmed Plaintiffs and Competition in the Relevant
 7 Market**

8 110. As a result of Defendants' and their co-conspirators' conduct, the number of brands
 9 and consumer choices in telescopes has been reduced.

10 111. Defendants' conduct has caused injury to both Plaintiffs and the relevant markets.
 11 Plaintiffs have been injured because they are paying supracompetitive, arbitrarily inflated prices for
 12 telescopes. As a direct result of such conduct, Plaintiffs are losing sales, goodwill, and market
 13 share.

14 112. In telescope manufacturing, price competition has been restrained or eliminated,
 15 particularly, as alleged above, for products where Synta and Ningbo Sunny have agreed to divide
 16 the market between them. As a result, output has been restricted, and the prices of telescopes have
 17 been fixed, raised, stabilized, or maintained at artificially inflated levels, and purchasers of
 18 telescopes, including Plaintiffs, have been deprived of free and open competition. This is an
 19 antitrust injury of the type that the antitrust laws were meant to punish and prevent.

20 113. Ningbo Sunny's plan to similarly dismantle Meade's manufacturing capabilities,
 21 and the failure of any replacement suppliers to emerge, demonstrates that the barriers to entry into
 22 the supply market, combined with Defendants' anticompetitive conduct, have effectively
 23 foreclosed competition at the supply level.

24 114. At the telescope-distribution level, price competition has been restrained or
 25 eliminated, particularly, as alleged above, for products where Defendants have agreed to divide the
 26 market between them. Further, by fixing prices and credit terms so that Plaintiffs always pay
 27 substantially more than Celestron, and by sharing Plaintiffs' confidential business information with
 28

1 Celestron, Defendants and their co-conspirators have prevented Plaintiffs from fairly competing
 2 against Celestron.

3 115. Competition, innovation, and consumer choice have also been restrained due to
 4 Ningbo Sunny's acquisition of Meade. Since Ningbo Sunny acquired Meade, Meade has not
 5 significantly competed with Celestron. Moreover, the acquisition of Meade prevented companies
 6 that are trying to compete against Defendants, such as JOC, from obtaining a potential
 7 manufacturing facility and important intellectual property that would have increased competition.

8 116. Ningbo Sunny and Synta have together controlled over 65% of the Manufacturing
 9 Market since 2012. In 2018, they controlled over 90%.

10 117. As a result of the conduct alleged herein, Defendants have stifled competition, fixed,
 11 raised, stabilized, or maintained prices at artificially inflated levels, and deprived consumers of free
 12 and open competition. This is an antitrust injury of the type that the antitrust laws were meant to
 13 punish and prevent.

14 118. Through their domination of the supply chain and unlawful agreements, Defendants
 15 have effectively prevented new market entrants at the distribution level, and forced many
 16 distributors to go out of business, thereby continuing to inhibit and restrict competition.

17 **F. Defendants' Conduct Has Substantially Impacted Commerce**

18 119. Defendants' anticompetitive acts involved United States domestic commerce and
 19 import commerce, and have a direct, substantial, and foreseeable effect on interstate commerce by
 20 raising and fixing prices for telescopes and diminishing competition throughout the United States.

21 **CLASS ACTION ALLEGATIONS**

22 120. This action is brought on behalf of Plaintiffs and all similarly situated retailers and
 23 distributors who purchased a telescope manufactured or sold by Defendants from Synta's
 24 acquisition of Celestron in 2005 through such time as class notice is given.

25 121. **Numerosity:** The number of Class members is so large that the joinder of all its
 26 members is impracticable. The exact number of Class members can be determined from
 27 information in the possession and control of the Defendants, but based on public records, the
 28 number of class members is in the thousands.

1 122. **Typicality:** Plaintiffs' claims are typical of the claims of the members of the Class.
 2 Defendants artificially raised the prices and restrained trade, and thereby injured all members of the
 3 Class in substantially identical fashion.

4 123. **Adequacy:** Plaintiffs will fairly and adequately protect the interests of the Class.
 5 Plaintiffs' interests are not antagonistic to or in conflict with the interests they seek to represent as
 6 Class representatives.

7 124. Plaintiffs' counsel is experienced in prosecuting class actions, is committed to fair
 8 and robust competition, and intends to prosecute this action vigorously.

9 125. **Existence of Predominance of Common Questions of Fact and Law:** Numerous
 10 common issues of law and fact exist and predominate over questions affecting only individual
 11 members. These issues include, without limitation:

- 12 a. Whether Defendants combined and/or conspired to fix, raise, maintain, or
 13 stabilize prices of telescopes sold to purchasers in the United States at any
 14 time during the Class Period;
- 15 b. Whether Defendants concertedly fixed, raised, maintained, or stabilized
 16 prices of telescopes sold to purchasers in the United States at any time
 17 during the Class Period, or committed other conduct in furtherance of the
 18 conspiracy alleged herein;
- 19 c. The duration and the extent of Defendants' conspiracy;
- 20 d. Whether Defendants fraudulently concealed their conspiracy from telescope
 21 distributors in the United States;
- 22 e. Whether the actions of Defendants in so conspiring violated Section 1 of the
 23 Sherman Act;
- 24 f. Whether Defendants' conduct caused the prices of telescopes sold at any
 25 time during the Class Period to purchasers in the United States to be
 26 artificially fixed, raised, maintained, or stabilized at noncompetitive prices;

- 1 g. Whether Plaintiffs and the other members of the Class were injured by
- 2 Defendants' conduct and, if so, the appropriate class-wide measure of
- 3 damages;
- 4 h. Whether Plaintiffs and other members of the Class are entitled to, among
- 5 other things, injunctive relief, and, if so, the nature and extent of such relief;
- 6 i. Whether further relief, including an independent monitor, is necessary to
- 7 prevent Defendants' ongoing violations of the laws detailed above; and
- 8 j. Whether Defendants have acted or refused to act on grounds that apply
- 9 generally to the class, so that final injunctive relief is appropriate respecting
- 10 the class as a whole.

11 126. These and other questions of law and fact are common to the Class and predominate
 12 over any questions affecting the Class members individually.

13 127. Absent certification of a class, the equitable relief sought by Plaintiffs will create the
 14 possibility of inconsistent judgments and/or obligations among Defendants.

15 128. **Superiority**: A class action is also superior to other available methods for the fair
 16 and efficient adjudication of this controversy. Requiring Class members to pursue their claims
 17 individually would invite a host of separate suits, with concomitant duplication of costs, attorneys'
 18 fees, and demands on judicial resources. Furthermore, as the damages suffered by the individual
 19 members of the Class may be relatively small, the expense and burden of individual litigation make
 20 it impracticable for the members of the Class individually to seek redress of the wrongs perpetrated
 21 by Defendants. Plaintiffs know of no difficulty that could be encountered in the management of
 22 this litigation that would preclude its maintenance as a class action.

23 **G. Fraudulent Concealment**

24 129. Plaintiffs have neither actual nor constructive knowledge of the pertinent facts
 25 constituting their claims for relief asserted herein, despite their diligence in trying to discover such
 26 facts. Plaintiffs and Class members could not have discovered through the exercise of reasonable
 27 diligence the existence of the conspiracy alleged herein until September 2019, when some evidence
 28

1 revealing Defendants' secret conspiracy was first made public in the summary briefing in the Orion
2 Litigation.

3 130. Defendants engaged in a self-concealing conspiracy that did not give rise to facts
4 that would put Plaintiffs or the Class on inquiry notice that there was a conspiracy among
5 Defendants to artificially fix, raise, maintain, or stabilize prices for telescopes. Defendants had
6 secret discussions about price, market allocation, and preventing competitors from acquiring assets,
7 and in furtherance of the conspiracy, they agreed not to discuss publicly the nature of the scheme,
8 and put forth pretextual explanations about their pricing.

CAUSES OF ACTION

First Cause of Action

Against All Defendants

Price Fixing, Credit Term Fixing, Market Allocation, Product Allocation, and Other Unlawful Collusion Between Competitors (Violation of the Sherman Act Section 1, 15 U.S.C. § 1)

13 131. Plaintiffs repeat and reallege the allegations of the Paragraphs above as if fully set
14 forth herein.

132. Section 1 of the Sherman Antitrust Act prohibits “[e]very contract, combination in
the form of trust or otherwise, or conspiracy, in restraint of trade or commerce.”

17 133. By engaging in the conduct described above, Defendants have knowingly and
18 intentionally combined and conspired with their co-conspirators with the specific intent to
19 unreasonably restrain trade in the market for consumer telescopes in the U.S.

134. Defendants entered into a continuing combination or conspiracy to unreasonably restrain trade and commerce in violation of § 1 of the Sherman Act by artificially reducing or eliminating competition for the pricing of telescopes directly sold to United States purchasers; combining and conspiring to raise, fix, maintain, or stabilize the prices of telescopes sold to United States purchasers; fixing credit prices and terms; agreeing to divide the market between themselves to eliminate competition; selling telescopes to distributors in the United States at noncompetitive and artificial prices; and combining and conspiring to eliminate competition and solidify their monopoly power.

1 135. Defendants further combined and conspired to unreasonably restrain trade and
2 commerce in violation of § 1 of the Sherman Act by dividing distribution so as to eliminate
3 competition with their co-conspirators; and by completing the merger between Ningbo Sunny and
4 Meade with the intent and effect to lessen competition, control potentially competitive
5 manufacturing capability, and create a monopoly. The effect of that merger has already lessened
6 competition, raised barriers to entry, and tended to create a monopoly in the market for telescopes
7 in the U.S.

8 136. Defendants' conduct has harmed competition in the U.S. for recreational telescopes
9 by increasing the prices paid by telescope distributors, increasing the prices paid by consumers,
10 reducing consumer choice, increasing barriers to entry, and stifling innovation. Plaintiffs were and
11 continue to be injured in fact by the conspiracies of Defendants.

12 137. Plaintiffs have suffered an antitrust injury as a direct and proximate result of the
13 combination and conspiracy between Defendants, and Defendants therefore are liable for treble
14 damages, costs, and attorneys' fees in an amount to be proven at trial under Section 15 of the
15 Clayton Act, 15 U.S.C. § 15.

Second Cause of Action

Against All Defendants

Monopolization, Attempted Monopolization, and Conspiracy to Monopolize (Violation of Sherman Act § 2, 15 U.S.C. § 2 and Clayton Act § 7, 15 U.S.C. § 18)

19 138. Plaintiffs repeat and reallege the allegations of the Paragraphs above as if fully set
20 forth herein.

139. Section 2 of the Sherman Antitrust Act prohibits any efforts to “monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations.”

24 140. Defendants have monopolized, attempted to monopolize, and/or conspired to
25 monopolize the markets for telescopes in the United States. By engaging in the conduct above,
26 Defendants are willfully maintained and abused their market power to control distribution and
27 price, and to prevent other market participants from acquiring competitive manufacturing potential.

1 141. Defendants' willful conduct as described above has given them the ability to control
2 prices and exclude competition.

3 142. Defendants' willful conduct as described above has a dangerous probability of
4 success in accomplishing its unlawful purpose of obtaining monopoly power.

143. Defendants' conduct described above has caused Plaintiffs antitrust injury.

6 144. As a result of Defendants' actions in violation of 15 U.S.C. § 2, Plaintiffs have been
7 injured and continue to be injured in their business and property in an amount to be determined at
8 trial, which amount is to be trebled in accordance with 15 U.S.C. § 15.

Third Cause of Action
Against All Defendants
Unfair Competition

(Violation of Cal. Bus. & Prof. Code §§ 17200 *et seq.*)

2 145. Plaintiffs repeat and reallege the allegations of the Paragraphs above as if fully set
3 forth herein.

4 146. Defendants' conduct violates state law as described above and constitutes unfair,
5 unlawful, and fraudulent competition against Plaintiffs.

6 147. As a result of Defendants' unfair, unlawful, and fraudulent competition, Plaintiffs
7 have lost money and customers, and continue to do so.

Fourth Cause of Action

Against All Defendants

Price Fixing, Credit Term Fixing, Market Allocation, Product Allocation, Other Unlawful Collusion Between Competitors, Monopolization, Attempted Monopolization, and Conspiracy to Monopolize

1 (Violation of the Cartwright Act, Cal. Bus. & Prof. Code §§ 16700 et seq.).
2 148. Plaintiffs repeat and reallege the allegations of the Paragraphs above as if fully set
3 forth in the preceding Paragraphs.

149. California's Cartwright Act prohibits any "combination of capital, skill or acts by

1 151. Plaintiffs have suffered an antitrust injury as a direct and proximate result of the
2 conspiracy between Defendants, and Defendants are therefore liable for treble damages, costs,
3 attorneys' fees and punitive damages in an amount to be proven at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs prays that the Court issue the following relief:

- 6 A. Equitable relief, including without limitation an injunction prohibiting Defendants'
- 7 illegal practices;
- 8 B. Compensatory damages;
- 9 C. Treble damages;
- 0 D. Restitution;
- 1 E. Disgorgement of ill-gotten assets and property;
- 2 F. Punitive Damages;
- 3 G. Attorneys' fees and costs; and
- 4 H. All such other and further relief as the Court may deem just, proper, and equitable.

6 | Dated: June 1, 2020

Respectfully submitted,

BRAUNHAGEY & BORDEN LLP

By: /s/ *Matthew Borden*
Matthew Borden

Attorneys for Plaintiffs

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a jury trial of all claims and causes of action triable before a jury.

Dated: June 1, 2020

Respectfully submitted,

BRAUNHAGEY & BORDEN LLP

By: /s/ *Matthew Borden*
Matthew Borden

Attorneys for Plaintiffs